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GAIN Report

Global Agricultural Information Network

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This Week in Canadian Agriculture - Issue 5

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Report Highlights:

Manitoba Judge Issues Decision Regarding Court Action to Stay Implementation of the Marketing
Freedom for Grain Farmers Act ** Cargill First to Announce Handling Agreements with Canadian
Wheat Board ** A Second Canadian Wheat Board Class Action Suit Filed Against Canadian
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This Week in Canadian Agriculture is a review of Canadian agricultural industry developments of interest to the U.S. agricultural community. The issues summarized in this report cover a wide range of subject matter obtained from Canadian press reports, government press releases, and host country agricultural officials and representatives.

Disclaimer: Any press article summaries in this report are included to bring U.S. readership closer to the pulse of Canadian developments in agriculture. In no way do the views and opinions of these sources reflect USDA's, the U.S. Embassy's, or any other U.S. Government agency's point of view or official policy.

Manitoba Judge Issues Decision Regarding Court Action to Stay Implementation of the Marketing Freedom for Grain Farmers Act.

A Manitoba court judge rejected a request for an interlocutory injunction made by eight former Canadian Wheat Board (CWB) directors. The general feeling in the industry seems to be that Judge Shane Perlmutter's well reasoned decision to reject the injunction cleared up much of the uncertainty plaguing the industry since the numerous court challenges began in early December.

The former directors had requested a stay on the implementation of the Marketing Freedom for Grain Farmers Act which eliminates the Canadian Wheat Board single desk provisions on August 1, 2012. Judge Perlmutter concluded that the plaintiffs (the former directors) did not demonstrate that this was a serious question of a constitutional or quasi-constitutional nature to be tried, one of the tests that must be met in order to declare federal legislation invalid. In addition, the Judge did not consider this to be a case where irreparable harm would result if the injunction was not granted.

The Marketing Freedom for Grain Farmer's Act makes fundamental changes to the CWB's mandate as it sets out a staged approach which transitions the CWB from a state trading enterprise to a commercial enterprise over a five year period. The former directors based their court action on a federal court judge's declaration on December 7, 2011, that the Minister of Agriculture had introduced legislation into Parliament illegally when he did not follow the process set out in the Canadian Wheat Board Act. The former directors' interpretation of the law maintains that a producer plebiscite was necessary before making changes to the CWB's single desk provisions.

The Canadian federal government is appealing Justice Campbell's December 7, 2011 declaration. The original hearing date for the appeal was set for May 2012. On February 17, 2012, the Friends of the Canadian Wheat Board (supporters of the single desk) won their request for an expedited appeal (to move the date for the appeal forward). A specific date has yet to be announced.

Cargill First to Announce Handling Agreements with Canadian Wheat Board

Cargill, the third largest grain company in Canada, announced on March 1, 2012, that they have reached a handling service agreement with the Canadian Wheat Board (CWB). According to the CWB press

release, this will give farmers who market through the CWB access to Cargill's 30 prairie grain handling facilities and port access at Vancouver, Thunderbay, and Baie Comeau.

The Canadian Wheat Board Act will be replaced on August 1, 2012, with the Canadian Wheat Board Interim Operations Act. Under the current Canadian Wheat Board Act structure, the Canadian Wheat Board negotiated one handling agreement with all the grain handlers through the Western Grain Elevators Association (WGEA). In this new marketing environment, the CWB is now required to negotiate separate contracts with varying terms with the different grain companies. Due to the fact that the CWB does not own any grain handling facilities, the new CWB's success is dependent on its ability to reach agreements that commit elevator and port terminal space for the grain that will be marketed through the CWB pools. Supporters of the CWB's single desk believed that the mainline handlers would not be interested in signing agreements with the CWB due to the fact that the CWB will be a competitor after August 1, 2012. Previous to this announcement, the Grain Growers of Canada circulated an open letter to the CWB and the Western Grain Elevator Association urging the CWB and the grain handlers to conclude the negotiations quickly in order to provide wheat and barley producers some certainty in order to begin their business plans. The letter is available at the following URL address:

<http://www.ggc-pgc.ca/docs/2012-02-20-OpenLtr-CWBandWGEA-FINAL.pdf>

The CWB press release can be found at the following URL address:

http://www.cwb.ca/public/en/newsroom/releases/2012/news_release.jsp?news=030112.jsp

A Second Canadian Wheat Board Class Action Suit Filed Against Canadian Government

Supporters of the single desk-model of the Canadian Wheat Board (CWB) known as Friends of the Canadian Wheat Board have launched a C\$ 17 billion class action suit against the Canadian federal government. The single desk provisions in the Canadian Wheat Board Act gives the CWB the sole authority to market Western Canada's wheat and barley that is for export or for domestic human consumption. In December 2011, the Canadian government passed legislation (the Marketing Freedom for Grain Farmers Act) that will see the CWB's single desk authority end on August 1, 2012. The legislation also removed the 10 producer-elected farmer directors and left the five government-appointed positions. The purpose of the class action suit is two-fold; (1) to restore the single desk authority to the CWB and restore producer control, and (2) to recover all damages resulting from the mandate changes that took effect December 15, 2011. The legislation has been highly contentious, in large part due to the process followed to pass the legislation. This class action suit is the second class action being brought against the federal government on its decision to remove the CWB's single desk authority. The first was filed by the Merchant Law Group for C\$ 15 billion and is only seeking compensation, not a restoration of the CWB to its former status. Both cases are based on a federal court judge's declaration that Canada's Minister of Agriculture, Gerri Ritz, acted illegally when he did not follow the process laid out in the CWB Act on how any changes to the single desk authority must be made. The Canadian government is appealing this judgment.

British Columbia Moves to Privatize Liquor Branch, New Brunswick Also Looking at Changes

On February 21 the provincial government of British Columbia (BC) announced that it will be soliciting Requests for Proposals from the private sector to assume control of the province's two Liquor Distribution Branch (LDB) warehouses by 2015. The warehouses distribute roughly 55 percent of the alcohol sold. This move to privatize will not affect the 197 government-operated liquor stores in BC. Currently, the LDB is solely responsible for the importation and distribution of liquor in BC. There are

currently just under 700 private liquor stores in the province, licensed by the LDB. The full press release can be found [here](#). A media source has pointed out that the expected sales value (C\$ 700 million) will greatly limit the potential buyers, possibly to just Anheuser-Busch InBev and Molson-Coors. These two companies own 98 percent of the Beer Stores in Ontario. New Brunswick's Alcool NB Liquor has also announced that it is looking into ways to work with third parties, although it emphasized that it is not looking to privatize its systems at this time. No timeline for proposals or changes was given.

Exchange Rate: Noon rate, March 2, 2012 (Bank of Canada): U.S. Dollar = C\$1.0113

Most Recent Reports from FAS/Ottawa:

Report #	Name of Report	Date Submitted
CA12006	Northern Trends – Winter 2012	02/03/2012
CA12005	Grain And Feed Quarterly	01/27/2012
CA12004	This Week in Canadian Agriculture, Issue 4	01/25/2012
CA12003	This Week in Canadian Agriculture, Issue 3	01/19/2012
CA12002	This Week in Canadian Agriculture, Issue 2	01/11/2012
CA12001	This Week in Canadian Agriculture, Issue 1	01/06/2012
CA11073	FAIRS Narrative	01/03/2012
CA11074	This Week in Canadian Agriculture, Issue 22	12/28/2011
CA11072	Dairy Annual	12/23/2011
CA11071	FAIRS Export Certificate Report-Update	12/22/2011
CA11070	Updated HRI Report	12/22/2011
CA11068	Food Processing Ingredients Report	12/21/2011
CA11067	Marketing Freedoms for Grain Farmers Act Becomes Law	12/19/2011
CA11065	Exporter Guide	12/06/2011
CA11062	Grain and Feed Quarterly	11/11/2011
CA11061	Fruit Annual	11/04/2011
CA11060	Success Story: U.S. Gourmet Company Tastes Sweet Success in Canadian Market	11/04/2011
CA11059	Bill C-18 – Marketing Freedom for Grain Farmers Act	11/03/2011